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BEFORE THE ARIZONA CORPORATION COMMISSION

8 IN THE MATTER OF THE APPLICATION
 OF LITCHFIELD PARK SERVICE
 9 COMPANY, AN ARIZONA
 CORPORATION, FOR A
 10 DETERMINATION OF THE FAIR VALUE
 OF ITS UTILITY PLANTS AND
 11 PROPERTY AND FOR INCREASES IN ITS
 WASTEWATER RATES AND CHARGES
 12 FOR UTILITY SERVICE BASED
 THEREON.

DOCKET NO: SW-01428A-09-0103

13 IN THE MATTER OF THE APPLICATION
 OF LITCHFIELD PARK SERVICE
 14 COMPANY, AN ARIZONA
 CORPORATION, FOR A
 15 DETERMINATION OF THE FAIR VALUE
 OF ITS UTILITY PLANTS AND
 16 PROPERTY AND FOR INCREASES IN ITS
 WATER RATES AND CHARGES FOR
 17 UTILITY SERVICE BASED THEREON.

DOCKET NO: W-01427A-09-0104

18 IN THE MATTER OF THE APPLICATION
 OF LITCHFIELD PARK SERVICE
 19 COMPANY, AN ARIZONA
 CORPORATION, FOR AUTHORITY (1) TO
 20 ISSUE EVIDENCE OF INDEBTEDNESS IN
 AN AMOUNT NOT TO EXCEED \$1,755,000
 21 IN CONNECTION WITH (A) THE
 22 CONSTRUCTION OF TWO RECHARGE
 WELL INFRASTRUCTURE
 23 IMPROVEMENTS AND (2) TO
 ENCUMBER ITS REAL PROPERTY AND
 24 PLANT AS SECURITY FOR SUCH
 INDEBTEDNESS.

DOCKET NO. W-01427A-09-0116

Arizona Corporation Commission

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1 IN THE MATTER OF THE APPLICATION
2 OF LITCHFIELD PARK SERVICE
3 COMPANY, AN ARIZONA
4 CORPORATION, FOR AUTHORITY (1) TO
5 ISSUE EVIDENCE OF INDEBTEDNESS IN
6 AN AMOUNT NOT TO EXCEED \$1,170,000
7 IN CONNECTION WITH (A) THE
8 CONSTRUCTION OF ONE 200 KW ROOF
9 MOUNTED SOLAR GENERATOR
10 INFRASTRUCTURE IMPROVEMENTS
11 AND (2) TO ENCUMBER ITS REAL
12 PROPERTY AND PLANT AS SECURITY
13 FOR SUCH INDEBTEDNESS.

DOCKET NO. W-01427A-09-0120

REQUEST FOR CLARIFICATION

8 Following the Procedural Conference on January 26, 2011, Litchfield Park Service
9 Co. ("LPSCO" or "Company") respectfully submits this Request for Clarification to the
10 Corporation Commission, seeking clarification of the Commission's order granting
11 rehearing and reconsideration at the January 18, 2011 Staff Meeting. Under the
12 circumstances of this case, the Company believes that it would be helpful to the
13 Administrative Law Judges and the parties for the Commissioners, at the next available
14 Commission Staff Meeting, to clarify the scope of rehearing in this matter.

15 On January 26, 2011, Administrative Law Judge Harpring conducted a procedural
16 conference to set a schedule for rehearing of this matter. At that procedural conference,
17 the parties expressed widely differing views on the scope of the Commission's rehearing
18 order in this case. The Company interpreted the Commission's rehearing order as limited
19 to the specific issues raised by the Company in its Application for Rehearing docketed on
20 December 29, 2010,¹ and the specific issues raised by RUCO in its Request for
21 Reconsideration Under A.R.S. § 40-252 docketed on January 14, 2011.² The Company

22 _____
23 ¹ As stated in its Application for Rehearing, LPSCO focused "on the legal and factual issues surrounding
24 the Commission's decision to adopt a return on equity (ROE) of 8.01% for LPSCO, along with the
25 Commission's decision to phase-in the rate increases over LPSCO's objections and other related issues set
26 forth below." LPSCO Application for Rehearing at 2.

² In its request, RUCO requested "that the Commission reconsider whether the \$7 million the Company
spent on upgrades shortly after completing the original plant resulted from imprudent operation,
overexpansion of components or ratepayers inappropriately paying twice for the same plant." RUCO
Request for Reconsideration at 2.

1 also did not believe that the Commissioners intended to conduct an entirely new hearing,
2 involving additional discovery, additional public comment sessions, new expert witnesses
3 and additional rounds of pre-filed testimony, on the issues raised by the Company and
4 RUCO. Obviously, a rehearing involving additional expert witnesses, further public
5 comment sessions, additional pre-filed testimony and discovery will result in significantly
6 increased rate case expense for the Company and its ratepayers, as well as the expenditure
7 of limited resources by the parties, including Staff.

8 In stark contrast, RUCO stated its intent to hire a new engineering expert to support
9 its claims that the upgrades to the Palm Valley Water Reclamation Facility (PVWRF)
10 should not be included in rate base. RUCO further stated that it may take 120 days or
11 longer before RUCO's engineering witness will be ready for hearing. Yet, in its Request
12 for Reconsideration, RUCO cited to various portions of the existing evidentiary record in
13 this case in support of RUCO's arguments that the Commission should "reconsider
14 whether the plant components as currently configured, include more than what is
15 necessary for current demands and redundancy and therefore [are] not used and useful."³
16 RUCO also cited to the existing record in support of RUCO's request that the
17 Commission "also reconsider whether some of the \$7 million in repairs results in Liberty
18 ratepayers having to pay for the same plant twice."⁴

19 During deliberations at the January 18, 2011 Staff meeting, Commissioner
20 Newman, who moved for reconsideration, stated that he felt he did not have an adequate
21 opportunity to ask questions at the prior open meetings. For that reason, the Company
22 interpreted the rehearing order as limited to a rehearing involving further discussion and
23 evaluation of the ROE and rate base issues based on the existing record and existing
24 witnesses. The Company cannot help but wonder why new witnesses are necessary for

25 ³ RUCO Request for Reconsideration at 3.

26 ⁴ RUCO Request for Reconsideration at 3.

1 RUCO to answer the Commission's questions about claims RUCO has already made
2 based on the existing record before the Commission. As such, the Company requests
3 clarification on whether rehearing focuses on the specific issues raised by the Company
4 and RUCO based on the existing record and witnesses, or whether rehearing will involve
5 an entirely new hearing with new witnesses and additional rounds of pre-filed testimony
6 filed by the parties.

7 In further contrast to the Company's limited view of this rehearing proceeding, the
8 City of Litchfield Park ("City") stated its intent to hire a new witness. Specifically, the
9 City wishes to hire a new expert witness to present testimony on the ROE issues raised in
10 the Company's application for rehearing. On that issue, the City did not retain an expert
11 witness and did not present evidence on cost of capital in the prior proceedings, and the
12 City did not take a position on the ROE issues until the legal briefing stage of this case.

13 At the procedural conference, Staff counsel expressed Staff's concern for a broad
14 rehearing given its limited resources and the eight (8) days of hearing already conducted
15 in this case. In turn, Commission Staff expressed its desire for the rehearing to be
16 scheduled for the next available date on the Hearing Division's calendar.

17 After hearing the differing views expressed during the procedural conference on
18 January 26, 2011, the Company obtained a copy of the audio recording for the
19 Commission Staff Meeting on January 18, 2011, in which the Commission granted
20 rehearing. The Company files this Request for Clarification because review of the audio
21 recording indicated that the Commissioners intended a limited rehearing. For example,
22 Commissioner Burns indicated her desire that if this matter was reopened, it would be
23 limited to "certain aspects" of the decision. Likewise, Commissioner Newman indicated
24 his desire for rehearing so he could ask additional questions on the issues that he didn't
25 have the opportunity to ask at the prior open meeting dates. Commissioner Newman also
26 indicated that he was not voting for "a full redundancy hearing."

1 As a result, LPSCO believes it would be helpful to the Administrative Law Judges
2 and the parties for the Commissioners to clarify the scope of rehearing in this matter.
3 Specifically, the Company requests that the Commissioners clarify whether they intended
4 to grant (1) a rehearing of the specific issues raised by the Company and RUCO in their
5 requests for rehearing based on the existing evidentiary record and further examination of
6 the parties' existing witnesses or (2) another hearing on the ROE and plant issues raised
7 by the Company and RUCO, including allowing the parties to hire new expert witnesses,
8 file additional rounds of pre-filed testimony and undertake additional discovery relating to
9 the rate base and cost of capital issues that were previously addressed by the prior
10 witnesses during the eight days of hearing conducted in this case.⁵

11 The Company had envisioned that the Commission would adopt a rehearing
12 procedure for this case similar to the procedure adopted in the Arizona Public Service
13 Company rehearing proceedings under Docket Nos. 10-0166 and 10-0262. In those
14 rehearing proceedings, the Commission adopted a procedure whereby APS and the parties
15 are presenting their cases to the Commissioners at hearings being conducted concurrently
16 with this filing overseen by the Administrative Law Judge. That rehearing procedure has
17 a limited scope of issues on rehearing and the Company would ask the Commission to
18 determine whether a similar procedure should be adopted for rehearing in this case.

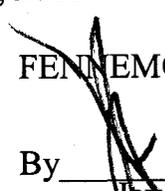
19
20 ⁵ For example, it is unclear whether the Commissioners intended for RUCO to be allowed to hire a new
21 engineering witness to address the sewer plant issues. On the plant issues, RUCO originally hired Matt
22 Rowell, an accountant, to address the plant issues. The Company took Mr. Rowell's deposition on
23 November 30, 2009 and, on December 22, 2009, the Company moved to strike Mr. Rowell's testimony on
24 the plant design and engineering issues because Mr. Rowell was not a qualified engineer. In response,
25 RUCO opposed that motion and argued that Mr. Rowell should be allowed to testify. In turn, Mr. Rowell
26 was allowed to testify on the plant issues, and the Company was forced to present two
engineering/operations witnesses (Brian McBride and Ray Jones) in response to Mr. Rowell's claims. A
full two to three days of the hearing was conducted on the plant issues. After eight days of hearing and
two open meetings, RUCO now proposes to hire an engineer to address the plant issues, even though
RUCO specifically chose not to hire an engineer and instead rely on Mr. Rowell in the first place. The
Company simply asks the Commission to clarify whether it intends for RUCO and the City to be allowed
to present additional expert testimony for the first time on rehearing.

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DATED this 28th day of January, 2011.

FENNEMORE CRAIG, P.C.

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ORIGINAL and thirteen (13) copies
of the foregoing were filed
this 28th day of January, 2011, with:

Docket Control
Arizona Corporation Commission
1200 W. Washington Street
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Copy of the foregoing was hand delivered
this 28th day of January, 2011 to:

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